Kinsel, Grant E.

From: Brian Dickerson [BDickerson@dickerson-law.com]
Sent: Thursday, November 13, 2008 9:03 AM
To: Kinsel, Grant E.
Cc: Julie L. Bryan
Subject: RE: Clark/JAKKS

Grant:

I am on the road and will have my office forward the complaint with the attachments. With regard to the time to respond, your client was served wth the waiver in October so per our local rules it would have until mid December to respond. I will have my office forward you the exact date. If you client wishes to make a counteroffer we understand. My client's business offers were provided not as final, and was intended to try to facilitate a resolution, similar to your client's $5,000.00 offer. Will talk to you soon.

Brian

Sent from Handheld Microsoft Device

From: Kinsel, Grant E. [mailto:GKinsel@foley.com]
Sent: Thu 11/13/2008 12:14 PM
To: Brian Dickerson
Subject: Clark/JAKKS

Brian,

Nice to speak with you this morning.

This confirms our agreement to extend the response date for all defendants. We had agreed on two weeks, but looking now at my calendar, two weeks from today is Thanksgiving. Please let me know if you object to an extension through and including December 1, 2008.

Also, we discussed your providing a color copy of the complaint and the various attachments for our file. We look forward to receiving these.

Finally, as I mentioned, we seem to have strikingly different views on the merits of the this lawsuit. While reasonable minds can certainly differ, I think that your client is going to be extremely hard-pressed to show that JAKKS' products infringe the patent-in-suit. Even if he could make such a showing, which I highly doubt, recoverable damages--even entertaining every assumption in your client's favor--would be nowhere near your client's settlement demand. We truly believe that this case is one that should be immediately settled before the parties incur substantial expenses and before your client becomes responsible for significant attorneys' fees. Therefore, we ask that your client reconsider Mr. Dwyer's previous settlement offer.

In the meantime, we look forward to working with you on this matter.

Regards.

Grant Kinsel
Foley & Lardner LLP

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